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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,791	12/02/2003	Hiroto Nishiyama	IPO-P1881	3322

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VOLPE AND KOENIG, P.C.  
UNITED PLAZA, SUITE 1600  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103

EXAMINER
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SHIH, HAOSHIAN

ART UNIT	PAPER NUMBER
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2173

MAIL DATE	DELIVERY MODE
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08/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/725,791

Applicant(s)

NISHIYAMA ET AL.

Examiner

Haoshian Shih

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20070726
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-8 are pending in this application and have been examined in response to application filed on 07/23/2007.

2. Applicant's election of claims 1-8 in the reply filed on 07/23/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 6-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

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6. As to claim 6, a "program" is being recited; the recited "program" is merely computer software that performs various functions. Thus, the recited "program" is software per se and not a process, a machine, a manufacture or a composition of matter. Accordingly, the claim fails to recite statutory subject matter as defined in 35 USC 101.

7. As to claims 7-8 are rejected under similar rationale as claim 6.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-8 are rejected under 35 U.S.C. 102(b) as being unpatentable by Microsoft Windows XP professional version 5.1 (XP).**

10. As to **INDEPENDENT** claim 1, XP discloses an image processing apparatus comprising: first display means for displaying one or more images of a plurality of images (fig.2; images stored in directory "album1" are displayed on the right side of the screen);

classification means for putting each image displayed through the first display means into any one of a plurality of categories (fig.3, image "Blue Sunset Vect or by ar0ne.jpg" is selected and dragged from directory "album1" to directory "album2");

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designation means for designating one or more categories among the categories (fig.4, the user designates a directory "album2" to access images in the directory);

second display means for displaying one or more images each of which belongs to any of the one or more categories designated by the designation means (fig.4, images stored in directory "album2" are displayed on the right side of the screen); and selective designation means for selecting and designating an image from among the images displayed through the second display means (fig.4, image "blue hills.jpg" from directory "album2" is designated for further processing such as "edit", "print" and "preview").

11. As to claim 2, XP discloses wherein the first display means includes any one of browse display means for displaying a plurality of reduced images in an array, view display means for displaying one single image, and virtual-light-box display means for displaying two or more images to compare the images (fig.2, a single image and an array of reduced images are both displayed for directory "album1").

12. As to claim 3, XP discloses wherein the second display means includes any one of browse display means for displaying a plurality of reduced images in an array, view display means for displaying one single image, and virtual-light-box display means for displaying two or more images to compare the images (fig.5, a single image and an array of reduced images are both displayed for directory "album2").

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13. As to claim 4, XP discloses storage control means for grouping one or more images selected and designated through the selective designation means and storing the grouped images into the same area in a recording medium (fig.6, a group of 5 images displayed as five thumbnails are stored in the same "album2" directory).

14. As to claim 5, XP discloses wherein the selective designation means comprises further means for selecting and designating an image from among the images displayed through the first display means (fig.3, a first display means displays a images stored in "album1" allows a user to select an image "Blue Sunset Vect or by arOne.jpg" from the directory "album1" and move it to a highlighted directory "album2").

15. As to **INDEPENDENT** claim 6, see rationale addressed in the rejection of claim 1 above.

16. As to **INDEPENDENT** claim 7, see rationale addressed in the rejection of claim 1 above.

17. As to **INDEPENDENT** claim 8, see rationale addressed in the rejection of claim 1 above.

### Conclusion

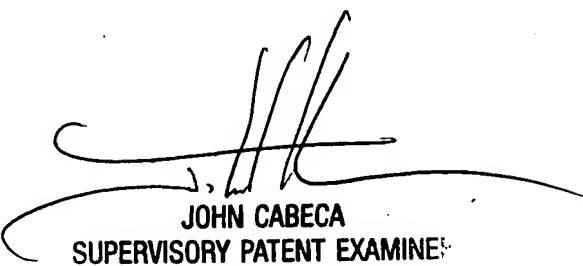
The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. 1.111(c) to consider these references fully when responding to this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haoshian Shih whose telephone number is (571) 270-1257. The examiner can normally be reached on m-f 0730-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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